United Nations A/53/PV.77

General Assembly
Fifty-third Session

Official Records

77th plenary meeting
Wednesday, 2 December 1998, 3 p.m.
New York

President: Mr. Opertti ..... (Uruguay)

The meeting was called to order at 3.20 p.m.

Agenda item 46

Fiftieth anniversary of the Universal Declaration of Human Rights

(b) Fiftieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide

Draft resolution (A/53/L.47)

Mr. Sucharipa (Austria): I have the honour to speak on behalf of the European Union on agenda item 46(b), entitled "Fiftieth anniversary of the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide". The Central and Eastern European countries associated with the European Union — Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia — and the associated country Cyprus, as well as the European Free Trade Association country member of the European Economic Area — Iceland — align themselves with this statement.

This year marks not only the fiftieth anniversary of the Universal Declaration of Human Rights but also that of the Convention on the Prevention and Punishment of the Crime of Genocide, which was adopted by the General Assembly 50 years ago on 9 December 1948, one day before the adoption of the Universal Declaration.

The European Union very much welcomes this opportunity to commemorate the adoption of the Genocide Convention. This is first of all the moment to honour the millions of victims of acts of genocide throughout history and to keep their memory alive. In the wake of the horror of the Holocaust, the conviction that such events must never occur again was a crucial element in the foundation of the United Nations and guided the work of this Organization from its very inception. It was that same conviction that led to the inclusion of the promotion and encouragement of respect for human rights among the purposes of the United Nations.

As the Universal Declaration of Human Rights was the beginning of an impressive development of the body of international human rights law, the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide was an important first step towards the effective prevention and punishment of war crimes and crimes against humanity.

Towards the end of the Second World War, the full horror of the obscenity of the suffering and extermination endured in concentration camps and elsewhere and the full extent and inhuman nature of the horrible crimes committed became public knowledge. It was said that the world was confronted with "a crime that has no name". While the Charter of the Nuremberg Tribunal referred to the concepts of war crimes and crimes against peace and humanity, the notion of genocide was introduced only subsequently. Genocide is a crime on a different scale than all other crimes against humanity, since it implies an

98-86596 (E)

This record contains the original text of speeches delivered in English and interpretations of speeches delivered in the other languages. Corrections should be submitted to original speeches only. They should be incorporated in a copy of the record and be sent under the signature of a member of the delegation concerned, *within one month of the date of the meeting*, to the Chief of the Verbatim Reporting Service, Room C-178. Corrections will be issued after the end of the session in a consolidated corrigendum.

intention to exterminate, in whole or in part, a particular group of human beings. The international community gave it special priority in order to take steps to prevent acts of genocide for all time.

The elaboration of a legally binding instrument for the prevention and punishment of genocide became a crucial standard- setting initiative in the early work of the United Nations. The Genocide Convention constituted major progress because of its general applicability. Under the Convention, all States parties are held to prevent and punish genocide in times of peace and war, in regard to the defeated and victors alike as well as in regard to nationals and non-nationals, no matter whether they are private individuals or constitutionally responsible rulers.

When the Genocide Convention was being prepared and discussed in the General Assembly, the question of an international criminal tribunal to prosecute and punish acts falling under the Convention was high on the agenda. Some argued that the creation of such a tribunal was necessary to reach the lofty goals embraced by the Convention.

However, at that time the international community was reluctant to take such a step. A general reference to an international penal tribunal to try persons charged with genocide was included in article VI of the Convention, but no provision for the immediate setting up of such a tribunal was made. Instead, the General Assembly, after unanimous adoption of the Convention, requested the International Law Commission to further pursue the question of the establishment of an international criminal court. Thus the adoption of the Genocide Convention also had a catalytic impact on the further development of international humanitarian and criminal law.

Today, we must acknowledge that despite the establishment of a basic framework of human rights and humanitarian law 50 years ago, the world continues to witness massive violations of human rights, war crimes, crimes against humanity, and genocide. From Cambodia to the Balkans to the Great Lakes region in Africa, unbelievable atrocities occur on a large scale. The international community has to date more often than not failed to prevent and stop such acts. As the High Commissioner for Human Rights rightly pointed out, we have lacked the means, the political will and an effective weapon against a culture of impunity.

Finally, a decisive step was taken by the international community, shocked by the cruel and outrageous crimes committed in the course of the violent break-up of Yugoslavia and the genocide in Rwanda. The establishment of ad hoc tribunals to prosecute and try the perpetrators of such crimes was and is a strong signal that individual responsibility is being taken seriously. The European Union will continue to support the work of the ad hoc tribunals, and it calls on all States to do likewise. The mission entrusted to these institutions must be fulfilled. The European Union also welcomes the Secretary-General's establishment of a group of experts charged, *inter alia*, with exploring options for bringing Khmer Rouge leaders to justice for the most serious human rights violations committed in Cambodia in the years 1975 to 1979.

In this fiftieth anniversary year, the idea of an international penal tribunal contained in the Genocide Convention at long last become a reality. The Rome Statute for the International Criminal Court, adopted last July, concludes a long and sometimes cumbersome process initiated 50 years ago. The European Union strongly supported the creation of an international criminal court, and it is extremely satisfied with the outcome of the Rome conference. Building on the experiences and achievements of the ad hoc tribunals for the former Yugoslavia and Rwanda, the results obtained in Rome hold the genuine promise of achieving a world where the interests of peace and justice will not be seen as contradictory.

We should keep in mind that the purpose of the International Criminal Court will not only be to prosecute and punish those who commit the most heinous crimes, but, through its mere existence, to deter and prevent individuals from committing them in the first place. The earliest possible entry into force of the Statute of the International Criminal Court is therefore of utmost importance. The European Union reiterates its call on all States to sign and ratify the Statute as soon as possible. It will be one of the lasting achievements of this General Assembly to have prepared the ground for a speedy follow-up to the Rome conference, so that the Court will become a reality as soon as possible.

Indeed, the Court will add a new and most important dimension to international relations in general and to the effectiveness of international law in particular. It will reinforce individual responsibility.

The time when cruelties and atrocities go unpunished must come to an end. Let us renew today this commitment that inspired the founders of the United

Nations. Let us strongly reaffirm the "never again" expressed 50 years ago.

Mr. Zackheos (Cyprus): Cyprus has aligned itself with the statement of the European Union. In view of the special significance of the item, I would like to make a few additional comments and observations.

Fifty years have passed since the unanimous adoption by the General Assembly, on 9 December 1948, of the Convention on the Prevention and Punishment of the Crime of Genocide. The fiftieth anniversary provides us with the opportunity to reflect on the suffering of millions of people, victims of genocide, and to draw the necessary lessons for the future. The Convention has sought to codify certain specific serious crimes committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group as crimes under international law.

The Genocide Convention is a far-reaching and legally binding international instrument for the punishment of the crime of genocide that does not confine itself to a narrow interpretation but includes in the definition, *inter alia*, such acts as the causing of serious bodily or mental harm and the deliberate imposition of conditions of life calculated to bring about physical destruction. It is important that the provisions of the Convention apply to any person, including constitutionally responsible rulers, public officials or private individuals and that such crimes are punishable irrespective of whether they have been committed in time of peace or war, as Professor Daes has noted.

It has been said that genocide is the ultimate crime and the gravest violation of human rights. During this century alone we have witnessed a frightening number of such heinous crimes. A bitter reminder is the Holocaust, which brought immense suffering to millions of people. The Ottoman massacre of 1.5 million Armenians between 1915 and 1923 is a further example of this crime, regarding which, unfortunately, efforts are being exerted to prevent its historical recognition. Having in Cyprus a vibrant, talented and entrepreneurial Armenian community, we can feel at first hand the trauma of this community of the serious injustices their ancestors suffered.

Unfortunately, the same policy has been applied against the people of Cyprus during and in the aftermath of the 1974 Turkish military invasion and occupation of 37 per cent of the territory of the Republic of Cyprus, which has resulted in one third of the population being forced out of their homes and finding themselves refugees in their own country. The case of Cyprus confirms what Jean-Paul Sartre, the noted author and philosopher, wrote in his 1967 essay "On Genocide": In some cases the occupying forces maintain their authority by the terror of a perpetual threat of massacre.

Further evidence of Turkey's policy of ethnic cleansing against the population of Cyprus can be found in the massive colonization and systematic destruction of the religious and cultural heritage in the territory occupied by the Turkish army and by the inhumane conditions of life imposed on the few Greek Cypriots and Maronites still living in the occupied part of the island. There is no doubt that the aim is the familiar one: to Turkify completely the occupied area and to erase any signs of the long historic Greek presence there. As the Secretary-General wrote in his report to the Security Council in 1996,

> "With regard to the Greek Cypriots and Maronites living in the northern part of the island, I had informed the Council that those communities were subjected to severe restrictions and limitations in many basic freedoms, which had the effect of ensuring that inexorably, with the passage of time, the communities would cease to exist." *(S/1996/411, para. 22)*

I would also like to refer to the plight of the Armenian community which, in the aftermath of the Turkish invasion in 1974, lost their homes and properties.

Unless a nation can come to terms with and recognize aspects of its history, that nation cannot create the foundation for the understanding and reconciliation that will allow it to take its place as a responsible partner in the community of nations. As the Special Rapporteur on genocide of the Subcommission on Prevention of Discrimination and Protection of Minorities, Mr. Benjamin Whitaker, wrote in a report,

> "It has rightly been said that those people who do not learn from history are condemned to repeat it." *(E/CN.4/Sub.2/1985/6, para. 15)*

The perpetrators of crimes must be brought to justice and be punished in accordance with the due process of law. In pursuing this aim of doing justice to the people that have suffered and in order to safeguard the inherent dignity of human beings, it is necessary, now more than ever, that all States cooperate in the punishment of those responsible for crimes of genocide.

Recent history has demonstrated the urgent need for the implementation of the provisions of the Convention. We have noted with satisfaction the recent decision of the International Criminal Tribunal for Rwanda, which for the first time handed down a life sentence for crimes of genocide. We hope that the establishment of a permanent criminal court with jurisdiction over the crime of genocide will act as a decisive deterrent to such crimes. My Government has worked actively for the establishment of the Court in the belief that an end must be put to impunity.

Despite the many advances made in the area of human rights and religious tolerance, the world is still witnessing today acts of mass extermination and ethnic cleansing, sometimes in the context of armed aggression or internal conflict. My Government invites all States that have not yet ratified or acceded to the Convention to do so as soon as possible. I would also like to reiterate our position, as expressed in our note verbale of 8 May 1998 addressed to the United Nations Secretary-General, that the reservations expressed by a number of countries when acceding to the Convention on the Prevention and Punishment of the Crime of Genocide are not the kind of reservations which intending parties to the Convention have the right to make.

Finally, I wish to express the hope that, as we approach the third millennium of our common history, the international community will work together in the interest of peace, justice and human dignity, so that the horrors that plagued us in past centuries will never be repeated again.

Mr. Boisson (Monaco) (*interpretation from French*): In 1946, addressing the members of the Nuremberg International Military Tribunal, the chief prosecutor, referring to the accused, stated,

> "If you do not condemn these men, their very conscience will revolt, because they know they are guilty".

By defining the concepts of genocide, war crimes and crimes against humanity, by establishing a binding norm of international law — that is, of *jus cogens* — and by condemning 12 of the 24 accused to capital punishment and seven others to long prison terms, the sentence passed by that exceptional Tribunal recognized, for the first time in history, the existence of a universal conscience and an international morality involving judicial consequences and criminal sanctions.

This significant step for humankind was achieved only through effective international cooperation above and beyond that of the Allies of the Second World War. Guided by the principles recognized on 8 August 1945 by the very Charter of the Nuremberg International Military Tribunal, the General Assembly adopted on 9 December 1948 the Convention on the Prevention and Punishment of the Crime of Genocide, whose fiftieth anniversary we are commemorating today. The Convention confirmed that genocide, whether committed in time of peace or in time of war, was a crime against human rights, which is to say, a matter of international law. It also specified the nature and scope of the crime. The Nuremberg Charter indeed determined the exceptional nature of war crimes and crimes against humanity, which General Assembly resolutions 3(I) and 95(I), adopted respectively, on 13 February and 11 December 1946, during the first session, subsequently confirmed.

This is the why, in this commemoration of the Convention on the Prevention and Punishment of the Crime of Genocide, to which the Principality of Monaco is party, I would like to refer also to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity of 26 November 1968. Having now been in existence for 30 years, that Convention is also guided by the same universal morality, internationally recognized more than 50 years ago, deeply rooted in the human conscience.

A common essential principle also brings these two instruments together. Acts of genocide, like war crimes and crimes against humanity, are considered, in matters of extradition, not to be political crimes, according to article VII of the 1948 Convention and article 3 of the 1968 Convention.

The States parties therefore commit themselves, in both cases, to grant extradition and to adopt all necessary domestic measures, legislative or otherwise, to make extradition possible. Another common point of these two texts, and not an insignificant one, is the recognition of the non-applicability of statutory limitations to the crimes mentioned — genocide, war crimes and crimes against humanity. The 1968 Convention makes this quite clear in its article 1, paragraph b.

These two international Conventions and the package of principles adopted 25 years, on 3 December 1973, by the General Assembly to promote international cooperation in the detection, arrest, extradition and punishment of individuals guilty of war crimes and

crimes against humanity, while they have certainly reduced the number and the frequency of such crimes, have not been able to prevent, even in the recent past, the continued perpetuation of these crimes that are unacceptable to human conscience and dignity.

Unfortunately, the most authoritative and most credible reports, including those of the Secretary-General of our Organization, have regularly testified to this. The press also periodically echoes the same theme. Today's crimes are just as brutal, just as painful, even if they may be different in scope or in nature from those that led in 1945 to the creation of the Nuremberg International Tribunal.

Among the explanations that could be offered with regard to obstacles to the implementation of these texts, often cited are the difficulties encountered in judicial action and in the international cooperation that is absolutely necessary in this area. The establishment by the Security Council of international tribunals and the historic decision taken at Rome last July to establish an International Criminal Court certainly represent an unquestionable step forward in matters of respect for justice and international morality. It remains for the criminals to be pursued, arrested and convicted, if their misdeeds are proved.

Our forebears quite wisely invented the concept of *jus cogens*, which the Vienna Convention on the Law of Treaties of 23 May 1969 incorporated in its article 53 and identified as a binding norm of international law. To the extent that principles recognized by the two Conventions unequivocally fall under the concept of *jus cogens*, no agreement, no treaty and no exception should be able to stand in the way of the implementation of the principles, of standards or norms of the Conventions. It should not be possible to invoke any limitation with regard to their scope or to their field of application.

Furthermore, practical initiatives also deserve to be encouraged in order to avoid the development of situations that might give rise to war crimes, crimes against humanity and genocide.

At the suggestion of his father, Prince Rainier III of Monaco, Crown Prince Albert, head of the Monaco delegation, proposed at the forty-ninth session of the General Assembly the preparation of an international convention to establish, in time of armed conflict, whether international or domestic inviolable humanitarian zones to protect women, children and the elderly. He also proposed that roads under international control be opened to allow free access to these zones so that assistance, including medical and food aid, could be delivered. This proposal is now more valid than ever, because carrying it out would certainly reduce considerably the risk of genocide, war crimes and crimes against humanity which, as we know, strike mainly the most vulnerable and most impoverished people.

Following the Nuremberg trials, the international community, with an acute sense of human dignity and respect for human integrity, recognized explicitly the concept of genocide. The norms that were adopted in 1948 and soon entered into force on 12 January 1951 were designed to inscribe that crime indelibly in the book of history. But history has often ignored them. We must therefore recall them, and recall them constantly, and regularly seek ways and means to make them imperatively applicable in any circumstance and regardless of the persons involved.

The condemnation by international law of genocide, war crimes and crimes against humanity must transcend space, time and the constraints of history and borders. Like respect for human rights, it is based on a universal ethical dimension. It involves the very roots of the human species, its survival and the values inherent in its condition.

In celebrating the fiftieth anniversary of the Universal Declaration of Human Rights a few days from now, we must be sensitive, more than ever before, to any and all violations of those rights that we may witness. The act of genocide is certainly their most flagrant, complete and abject violation. In fact, it negates them entirely.

Draft resolution A/53/L.47, which we propose to adopt today and of which the Principality of Monaco is a co-sponsor, seeks to recall that the prevention and punishment of the crime of genocide must be universal and comprehensive and cannot be mitigated. The international community, in the face of new, too often "ethnocidal" and sometimes insidious forms of genocide, must renew its commitment to combating them by all available means and to pursuing tirelessly their criminal perpetrators to their arrest and conviction.

Ms. King (United States of America): Fifty years ago, the world awoke from the sustained nightmare of the Holocaust and the Second World War and resoundingly declared that atrocities such as these would never happen again. Attempts to eliminate minorities and whole ethnic

populations would and will not be allowed under any circumstances. This was our hope.

Thus followed the Nuremberg trials, during which Nazi war criminals were prosecuted for their horrible crimes against humanity. From that point forward, perpetrators of genocide — including high government officials — would be held criminally liable for their horrendous crimes against humanity. The goal was not only to punish the guilty, but to deter future transgressions and, ultimately, to end the practice of genocide.

Rafael Lemkin, a Polish lawyer and a survivor of the Holocaust, coined the term "genocide" and, after immigrating to the United States, began the process of codifying the elements of this crime against humanity. After the Nuremberg trials, and due to the work of Rafael Lemkin and a world weary of the horrors of the Second World War, came the Convention on the Prevention and Punishment of the Crime of Genocide, which serves as part of the legal foundation for the International Criminal Tribunals for Rwanda and for the Former Yugoslavia.

The definition of genocide in the Genocide Convention, granting jurisdiction on genocide to international courts, has also been incorporated into the recently concluded treaty on the establishment of a permanent International Criminal Court.

However, despite all that the world has learned and all of the hard work that has been done since the Second World War, the horror of genocide remains. This plague continues to haunt the Earth, generating racial, ethnic and religious hatred and mass murder in the Great Lakes region of Africa, the former Yugoslavia and many other parts of the world.

We must acknowledge the horrors of the past. And each of us, as nations, must take full responsibility for our world and seek to ensure that the rights of all individuals are protected. We, the international community, must put in place effective judicial systems that safeguard human rights and the rule of law.

Just four short years ago, Rwanda was the site of one of the worst genocides in modern history, reminding us once again of the need to further our commitment to preventing and eradicating this scourge. The International Criminal Tribunal for Rwanda was established to bring the perpetrators of genocide to justice. The United States is working, through the Great Lakes Justice Initiative, to enhance the rule of law and end the culture of impunity as a means to break cycles of ethnic violence. Through the Initiative, the United States will help build credible, impartial judicial instruments throughout the Great Lakes region.

Another region of profound and continuing concern is Kosovo, where criminal assaults on the civilian population have reminded us how fragile the situation in the Balkans remains. Mass killings; the brutal, forcible removal of large numbers of civilians; and massive, unwarranted destruction of civilian homes have occurred, demonstrating the continuing justification for systems by which the international community can be vigilant in the prevention and punishment of these vicious crimes.

In addition to vigilance, there must be full cooperation by the international community in exacting justice. Despite the incontrovertible commitments undertaken in the 1995 Dayton Agreement, numerous indicted suspects remain at large in the former Yugoslavia. The United States calls on all nations, particularly the Federal Republic of Yugoslavia (Serbia and Montenegro), to cooperate with the efforts of the International Criminal Tribunal for the Former Yugoslavia to bring the accused to trial and to permit the Tribunal to fully investigate alleged crimes in Kosovo.

Also in our recent history, the world was sadly witness to the murderous tide that swept Cambodia during the rule of Pol Pot's Khmer Rouge, in which approximately 2 million Cambodians were killed. One of the top priorities of the United States Government is bringing the people responsible for this mass murder to justice.

Today, the United States reaffirms its strong support for continued international attention to the crime of genocide. On this fiftieth anniversary of the Convention, the international community must rededicate itself to the eradication of this recurring blight. We must eliminate genocide for the sake of our children, for the sake of ourselves, in honour of our history and for the whole of humanity.

Mr. Wenaweser (Liechtenstein): The Convention on the Prevention and Punishment of the Crime of Genocide is a landmark achievement in the history of the United Nations. Therefore we find it very appropriate that the General Assembly meets today to commemorate its adoption almost fifty years ago. Liechtenstein is a State Party to the Convention and has, in accordance with article V thereof, included the crime of genocide in its

penal law and made it a criminal offense punishable regardless of the place where it is committed. Genocide has been a recurrent pattern through all periods of the history of mankind, but it was only in the aftermath and the shocking impression of the Holocaust that the international community found the political will to outlaw genocide specifically as a crime under a legally binding instrument, based on a declaration made by the General Assembly in December 1946.

The Genocide Convention is in many ways a forward-looking legal instrument which enables the international community to tackle effectively the challenge of coping with this abhorrent crime. There are two elements which render the Convention a particularly useful tool. First, it aims not only at bringing to justice those who have committed one or several of the acts listed in article III, but also at preventing the commission of these crimes. SecondLY, the Convention is based on the conviction that international cooperation is required to achieve the purposes of the Convention. The experiences since its adoption have shown clearly that prevention and international cooperation are indeed of indispensable importance for liberating mankind from genocide.

While the Convention is potentially an effective tool, the history of the past fifty years has made it clear that it can fulfil its intended functions only if States parties are willing to give full effect to its provisions. This has very often not been the case. Each region of the world has witnessed at least one genocide over the past fifty years, with the vast majority of the perpetrators going unpunished. International cooperation, recognized as a necessity by the Convention, has thus not been effective, and a climate of impunity has persistently prevailed.

While the international community has thus not been giving full effect to the provisions of the Genocide Convention, the recent past has brought about important and very encouraging developments which bear witness to the increased awareness among States of the need to break the circle of impunity and the commission of the crime of genocide, and in particular awareness of the need for international jurisdiction.

The International Court of Justice has been seized with a dispute relating to the responsibility of a State for genocide, as foreseen in article IX of the Convention. The Statutes of the ad hoc Tribunals for the former Yugoslavia and Rwanda, through which the Security Council has established effective international jurisdiction, include the crime of genocide, the definition of which is taken verbatim from article II of the Genocide Convention. On 2 September 1998, the first judgement ever handed down by an international court on the crime of genocide was rendered by the International Criminal Tribunal for Rwanda (ICTR). This decision was widely welcomed as an historic step for the interpretation and implementation of the Genocide Convention, and we fully subscribe to this assessment. The decision of the ICTR was historic for more than one reason, and we particularly welcome the conclusion drawn by the Tribunal that the acts of sexual violence in question were consistent with the specific intent of destroying an ethnic group and thus constituted genocide.

There can be no doubt that the adoption of the Statute of the International Criminal Court (ICC) on 17 July this year in Rome is the single most significant development in connection with the Genocide Convention. We join those who have welcomed this event as a timely and crucial contribution to both the Human Rights Year and the fiftieth anniversary of the Convention. Liechtenstein was been among the first signatories of the Statute in Rome. Prevention and international cooperation are conceptually and practically very important elements of the ICC Statute, as they are of the Convention. For the first time since the adoption of the Convention, there is a realistic opportunity that genocide and other serious crimes will be subject to effective international jurisdiction, as was foreseen in article VI of the Convention. It was gratifying to note that there was a strong consensus at the Rome Conference that universal jurisdiction over the crime of genocide already existed. The inclusion of this crime — again with the definition provided by article II of the Convention — was therefore not among the controversial topics in Rome.

The past few years have thus brought about a major momentum in connection with the Genocide Convention and its implementation. We would have appreciated if specific language on some of these developments could have been incorporated in the resolution which we will adopt later today. Unfortunately, this has not been possible. However, in conclusion we would like to thank the delegation of Armenia for bringing this important issue to the attention of the General Assembly and to express our support for the unanimous adoption of draft resolution A/53/L.47.

Mr. Yel'chenko (Ukraine): This year the world marks a very important event of historic significance: the fiftieth anniversary of the Universal Declaration of

Human Rights; an international instrument designed to promote and protect the basic elements of meaningful human existence.

It is very symbolic that adoption of this Declaration was preceded on 9 December 1948 by the General Assembly's approval of the Convention on the Prevention and Punishment of the Crime of Genocide, widely conceived to be the most reprehensible of all crimes.

This form of crime is often understood as being almost exclusively associated with the Nazis in their drive to exterminate *untermenschen*, or subhuman people. Unfortunately, today the meaning of this word is much broader, both in temporal scope and in terms of the techniques employed. Many researchers maintain that the word "genocide" describes a process which is considerably more multifaceted and sophisticated than a simple mass murder.

According to Raphael Lemkin, the Polish lawyer whom the distinguished delegate of the United States already mentioned, genocide does not necessarily mean an immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. It is intended, rather, to signify a coordinated plan of different actions aimed at destroying the essential foundations of the life of specific national groups with the aim of annihilating them, their political and social institutions and their culture, language, national feelings and religion, as well the personal security, liberty, health and dignity of the individual.

The twentieth century has, unfortunately, witnessed many examples of genocide policies.

Last month, Ukraine observed the sixty-fifth anniversary of the man-made famine of 1932-1933, commemorating one of the most tragic chapters in its history, when the Ukrainian people became the object of a conscious and deliberate genocide undertaken by the Soviet regime of those days. That famine was not caused by the calamities of nature; it was the result of a twisted political ideology calculated into a vicious criminal scenario and implemented by those who pursued the authoritarian rule of Stalin's regime. It was aimed at suppressing and eliminating the aspirations to freedom of such freedom-loving nations as Ukraine.

Not very many people in the world know the truth about the tragedy experienced by the Ukrainian people. According to the most modest estimates, it took some 7 million innocent lives. Some researchers suggest that that number could be much bigger. A report published by a prominent Belgian daily, *Le Flandre*, in September 1933, graphically captured the drama and the tragedy unfolding in Ukraine. It stated:

> "So Ukrainians are dying of hunger. This is a great calamity not only for Ukraine and Ukrainians, but for the culture of Russia, Europe and even the whole world. For this dying land was once a great production centre of agriculture... The soil has not changed; only the people have. This is where we have to look for the causes of the great drama in which a whole nation has become the sacrificial victim."

Many years have passed since then, but that horrible tragedy cannot and should not be forgotten. Recently, the President of Ukraine issued a decree that from now on, every year on the last Saturday of November, we will mark Famine Victims' Memorial Day.

In his message to the Ukrainian people and the Ukrainian- American community on the occasion of the sixty-fifth anniversary of the 1932-1933 famine, President Clinton of the United States stressed that

> "we have a solemn obligation to keep alive the memory of the innocent victims who suffered and died because of Stalin's attempt to crush Ukraine".

Neither should we forget the horrors of the Second World War, which witnessed the Holocaust and the extermination of many millions of people.

The post-war period has also seen a number of crimes of a genocidal nature. Let us refresh our minds and remember Cambodia, Bosnia and Herzegovina and Rwanda. It is hard to believe, but it is a fact that 50 years after the adoption of the Universal Declaration of Human Rights and the Convention on the Prevention and Punishment of the Crime of Genocide, we hear about the mass extermination of innocent people and ethnic cleansing in various parts of the world. And all this is happening on the threshold of the next millennium.

There is a need to take a fresh look at the substance of the Convention on the Prevention and Punishment of the Crime of Genocide. We must try to determine why genocide happens and to discuss more effective ways and means to ensure the practical implementation of the Convention. That is why we note with satisfaction the

recent relevant decision of the International Criminal Tribunal for Rwanda. The creation of an International Criminal Court will also become an extremely important step towards this end.

In our view, the definition of genocide should be expanded to include all groups targeted by policies which lead to the annihilation of humanity. Chemical, biological or radiological warfare could also be regarded as innately genocidal.

The sad lessons of the twentieth century also prove that the mass destruction of human lives often originated in intolerance and hatred, in the denial of people's rights to their own thoughts and in the search for domestic enemies.

By founding the United Nations in 1945, the creators of this universal Organization elaborated and put into the Preamble of the Charter one of the best human principles, addressed to their contemporaries and to future generations: to practice tolerance and live together in peace with one another as good neighbours.

It was therefore very symbolic and very timely that the General Assembly included in the agenda of this session the item on dialogue among civilizations. In its resolution proclaiming the United Nations Year of Dialogue among Civilizations, the General Assembly, recognizing the diverse civilizational achievements of mankind, emphasized the importance of tolerance in international relations and the significant role of dialogue as a means to reach understanding, remove threats to peace and strengthen interaction and exchange among civilizations. Our delegation was among the sponsors of that resolution, and we hope that that message from the General Assembly will not remain a message on paper only.

We also appreciate the timely initiative of Armenia in sponsoring the draft resolution under agenda item 46 (b), which we are going to adopt today.

Mr. Wyzner (Poland): Let me begin by fully associating myself with the statement made on behalf of the European Union by the Ambassador of Austria.

We are meeting here today to commemorate the fiftieth anniversary of the adoption of one of the most important treaties of international law: the Convention on the Prevention and Punishment of the Crime of Genocide. In the aftermath of the Second World War, during which horrendous atrocities were committed on an unprecedented scale, the United Nations decided to elaborate a convention on the crime of genocide as one of the priority issues before the Organization. At its first session, the General Assembly, in resolution 96 (I), affirmed that genocide is a crime under international law, condemned by the civilized world, and that its punishment is a matter of international concern. Recognizing that international cooperation is indispensable to prevent and punish the crime of genocide, it requested the Economic and Social Council to undertake work with a view to drawing up a draft convention to that end.

Genocide is a particularly heinous crime which shocks the conscience of mankind. For wherever and whenever it is committed, it is directed against all of humanity and its principles and values. In the words of the 1946 resolution, genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to life of individual human beings. Mankind knows no other crime that could be considered more evil and despicable. The elaboration and adoption of an international instrument to combat this crime in just two years could be regarded as a considerable success and proof of the determination of the international community not to allow the atrocities of the Second World War to be committed again.

The first victim of the war, Poland, suffered the heaviest losses in proportion to its population. It was on my country's territory that the Nazi occupants committed the terrible crimes of the Holocaust and other mass-scale genocide. Therefore, it will come as no surprise to learn that Poland has been one of the most energetic supporters of elaborating a convention against genocide and was represented in the small ad hoc committee established for that purpose by the Economic and Social Council.

The adoption of the Convention against genocide raised high hopes that the world would never again witness such inhuman atrocities and that the United Nations would be able effectively to prevent the recurrence of this crime. The Convention was supposed to be complemented by the creation of an international penal tribunal with jurisdiction over the crime of genocide or, according to some proposals, by the addition of a criminal chamber to the International Court of Justice. However, such a tribunal has not been created, and the early hopes associated with the adoption of the Convention proved to be premature. In spite of the fact that international law explicitly condemned genocide as the most heinous of crimes, the world was yet to witness genocide committed in various parts of the globe in defiance of the basic rules of international law and the

basic principles of morality. The international community failed to respond, or responded belatedly to genocide, thus failing to prevent the loss of hundreds of thousands of innocent lives.

These bitter and tragic experiences have helped us draw some sober lessons. Humanity is now better prepared to deal with the most atrocious crimes committed against it. The Security Council has a particular role in this respect, as the Members of the United Nations have conferred upon it the primary responsibility for the maintenance of international peace and security. Its ability to react speedily to crises may in many instances be critical in preventing the suffering of thousands of human beings.

The creation by the Security Council of the Tribunals for the Former Yugoslavia and for Rwanda are the first instances since the sentencing of the war criminals by the Nuremberg and Tokyo Tribunals of a decision by the international community to take decisive steps to bring to justice those responsible for the massive loss of life and the enormous sufferings inflicted on civilian populations. The creation of these Tribunals has sent a strong signal that the world is no longer prepared to tolerate such behaviour and that it is determined to put an end to the culture of impunity. This year's judgement of the Rwanda Tribunal in the case of Jean-Paul Akayesu, former Mayor of the Taba district, was the first ever in which the accused was found guilty of the crime of genocide, and the sentencing of Jean Kambanda was the first rendered for this crime. Both decisions of the Tribunal were of historic significance, as they brought life to the 50-year-old Convention, thus demonstrating that it can be an effective tool for dealing with the scourge of genocide. The work of the Tribunals has also underlined the growing awareness that combating genocide is a duty of all members of the international community and has proved the willingness of its members to cooperate in the interest of justice.

It is in this context that we have joined in sponsoring draft resolution A/53/L.47, which reaffirms the significance of the Convention as an effective international instrument for the punishment of the crime of genocide. We should also like to express our satisfaction at the broad support it has received.

The adoption of the Rome Statute of the International Criminal Court was another logical step on the way towards bringing an end to atrocities directed against mankind. The Court, which will be a permanent body with jurisdiction over the crime of genocide, will be the long-awaited and indispensable complement to the 1948 Convention. The 50 years since its adoption have clearly shown that only a permanent judicial body with broad international support can effectively guarantee the implementation of its provisions. It is therefore in the interest of all that the Court be established as soon as possible and that it receive widespread support. A strong Court will be the best deterrent against the commission of crimes over which it has jurisdiction, and its work should contribute significantly to the creation of a new culture in international relations in which there will no longer be a place for such appalling acts as the world has witnessed during the present century. We believe that the establishment of the Court will be a triumph of the lofty ideals which led to the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide. Poland therefore commends the work done thus far and sincerely hopes that the remaining documents necessary for the Court to become operational will be completed before the end of June 2000 so that the world will enter the new millennium better prepared than ever before to fight the crime of genocide and so that future generations will be permanently free from this scourge.

Mr. Arda (Turkey): When at its first session the General Assembly affirmed that genocide is a crime under international law and asked for a convention on the crime of genocide to be drawn up, the bitter experiences of the devastating Second World War were very much alive. The drafting of the Convention on the Prevention and Punishment of the Crime of Genocide was completed in a comparatively short time and adopted by the General Assembly at its third session by a roll call vote with no abstentions and none against. Fifty-six States, including Turkey, voted in favour. Two years after its adoption by the General Assembly and one year before its entry into force in 1950, Turkey became a party to the Convention without any reservations.

The Convention on the Prevention and Punishment of the Crime of Genocide is an example of the determination of the founding Members of the United Nations to prevent future generations from experiencing the same suffering that they had to endure. The Convention expanded the boundaries of international law in more than one direction. First of all, the Convention introduced into international law a crime with a clear direction. Secondly, the Convention placed responsibility on everybody, including constitutionally responsible rulers, public officials and individuals, without distinction between time of war and time of peace. Thirdly, the crimes defined in the Convention were placed outside the scope of political crimes for the purpose of extradition.

Fourthly, the Convention foresaw that criminals should be tried in a national or an international tribunal, thus contributing to one of the most important principles of international criminal law: try or extradite. We also have to mention the contribution of the International Court of Justice to the definition of this crime, through its advisory opinion of 1951 concerning reservations to the Convention.

In the third preambular paragraph of the Convention it is stated that

> "in order to liberate mankind from such an odious scourge, international cooperation is required".

Unfortunately, the international community failed to realize this cooperation. In the past decade alone, we have twice witnessed genocidal atrocities, in Bosnia and Herzegovina and in Africa. In both cases, despite continuous calls, the international community hesitated and failed to act in time to prevent these crimes. If the international community had manifested its determination to cooperate as foreseen by the Convention, the need to establish two Tribunals would not have arisen. At the same time, we would not be in the position of applauding the decision of the International Criminal Tribunal for Rwanda on the crime of genocide and of appreciating the decisions of the International Tribunal for the Former Yugoslavia to indict those responsible for the crime of genocide. From the perspective of the victims or their relatives, these measures do not reduce the responsibility of the international community.

Fifty years after the adoption by the General Assembly of the Convention on the Prevention and Punishment of the Crime of Genocide, an issue that had not been sufficiently addressed by the Convention was resolved last summer. Article VI of the Convention states that

> "Persons charged with genocide ... shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction".

The statute of the International Criminal Court, by addressing the crime of genocide, is in a sense fulfilling the provision of article VI of the genocide Convention.

One of the previous speakers made a statement that was full of distortions. In fact, he was so busy misleading the General Assembly that he forgot, for example, to mention the genocide that took place in Bosnia and Herzegovina. I am sure that his counterpart will give him the reply he deserves.

It is our sincere hope that, 50 years after the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide by the General Assembly, we will be able to draw lessons from our shortcomings. It is our hope that we will not have the need in the future to establish additional *ad hoc* international criminal tribunals, and that the international community will be able to enhance cooperation and take timely measures to liberate mankind from this odious scourge.

The President (*interpretation from Spanish*): I call on the representative of Armenia to introduce draft resolution A/53/L.47.

Mr. Abelian (Armenia): I have the honour to introduce draft resolution A/53/L.47, entitled "Fiftieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide", on behalf of the sponsors listed in that document as well as Colombia, Hungary, Iceland, Norway, Paraguay, Turkey, the United Republic of Tanzania, Uzbekistan and Vanuatu.

The history of the Convention began in 1946, with the proposal of the Governments of Cuba, India and Panama to include the consideration of a draft resolution on the crime of genocide in the agenda of the first session the General Assembly. At that session, the Assembly then adopted two resolutions related to the subject: resolution 95 (I) on affirmation of the principles of international law recognized by the charter of the Nürnberg Tribunal, and resolution 96 (I) on the crime of genocide. The latter affirmed that genocide is a crime against humanity and that those responsible for it are punishable. In its final provision the resolution called for a study aimed at creating an international legal instrument to deal with the crime. That study was at the origin of the Convention, the fiftieth anniversary of which we are celebrating at this session.

Adopted unanimously by the General Assembly on 9 December 1948, the Convention preceded, albeit by one day, the Universal Declaration of Human Rights itself. It entered into force on 12 January 1951 and today has 125 parties and 42 signatories.

Seeking to codify a fundamental principle of civilization, the Convention declares that genocide is the committing of certain acts with intent to destroy, wholly or in part, a national, ethnic, racial or religious group as such. In defining the act of genocide, it goes beyond actual killing, and states that acts causing serious bodily or mental harm, deliberate infliction of conditions of life calculated to bring about physical destruction, imposing measures to prevent birth and forcibly transferring children of one group to another constitute acts of genocide.

For the last 50 years, the Universal Declaration of Human Rights and the Convention together formed the foundation of the international human rights regime that sets out the rights of every individual, and helps protect against intolerance, torture and discrimination. But for the same 50 years, the need has remained for effective means to ensure the implementation and efficiency of the Convention. Towards that end, on 3 April 1998, during its fifth-fourth session, the Commission on Human Rights adopted its resolution 1998/10, entitled "Fiftieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide".

The draft resolution before us recalls that the General Assembly, in adopting the Convention, recognized the crime of genocide as an odious scourge which had inflicted great losses on humanity and was convinced that international cooperation was required to facilitate the speedy prevention and punishment of the crime of genocide.

It also notes that the fiftieth anniversary of the Convention provides a new opportunity for the international community to draw the attention of all States to the significance of the Convention and to invite them to redouble their efforts on behalf of the prevention and punishment of the crime of genocide.

The draft resolution then reaffirms the significance of the Convention as an effective international instrument for the punishment of the crime of genocide and calls upon all States to increase and intensify their activities aimed at the full implementation of its provisions. It also invites Governments and the international community to continue to review and assess the progress made in the implementation of the Convention since its adoption, and to identify obstacles and the ways in which they can be overcome, both through measures on the national level and through enhanced international cooperation.

I would like to express the gratitude of my Government to the Governments of Bolivia, Burundi, Cyprus, Rwanda and Uruguay for their cooperation towards the inclusion of this item on the agenda of the fifty-third session, and to thank all the sponsors for their participation in the drafting of the text. I would also like to express the hope of the sponsors that the draft resolution will be adopted without vote.

Allow me now to make a statement on behalf of my delegation.

For the international community, this has been the year of the fiftieth anniversary of the Universal Declaration of Human Rights. That anniversary provides an ideal opportunity to reinvigorate the commitment to the promotion and protection of human rights, to reflect on the current status of human rights instruments and to outline a clear course for their effective implementation in the future.

As part of this process, and in order to intensify international cooperation in the field of human rights, it is essential to recall another anniversary: the fiftieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide. Despite all the advances of our civilization, the twentieth century is, unfortunately, replete with instances of genocide, the latest of which the world has witnessed during the past decade. For this reason, there is a need to take a fresh look at the Convention to try to determine why, on the eve of the third millennium, the world still bears witness to genocide, and to discuss the ways and means of its prevention and punishment.

Albert Camus called the twentieth century an age of murder, but, more precisely, it is an age of politically sanctioned mass murder, of collective, premeditated death intended to serve the ends of the State. It is an age of genocide, in which 60 million men, women and children from many different races, religions, ethnic groups, nationalities and social classes and living in many different countries of the Earth have had their lives taken because the State thought it desirable.

The word genocide itself was first used in 1944, when, in his work *Axis Rule in Occupied Europe*, Raphael Lemkin introduced the new word and gave it theoretical grounding. With his understanding that modern war, unlike that of past centuries, is directed against people, he was the first to attempt to give this a political and legal definition as a crime.

A recent study on genocide begins with this statement: "The word is new, the crime is ancient." This could be paraphrased as "The word is new, the phenomenon is ancient", for while the slaughter of whole groups has occurred throughout history, it is only within the past few centuries that this has produced even a sense of moral horror, much less been thought of as criminal. Indeed, from ancient times until well into the sixteenth century, genocide was not something that people were ashamed of, felt guilty about or tried to hide; it was open and acknowledged.

There are aspects of genocide in the twentieth century that set it apart from the earlier ages of human destructiveness. In terms of the number and range of victims, the variety of forms that genocide has taken, the urge towards total destruction of whole groups, the elaborate technology that facilitates death and eases conscience, and the concentration camp, it is a unique age of genocide.

In the course of the development of civilization, methods to control conquered territories and populations gradually evolved from the most primitive to the more civilized, depending on the conqueror's full agenda and methods of achieving it. This is why in the twentieth century, the return to methods of total annihilation of national minorities in a territory controlled by authorities representing the ruling nation had a shocking effect on the international community, which thought that mankind had evolved out of its primitive period and was no longer capable of using the most barbaric methods to resolve ethno-political issues.

The twentieth century has witnessed a number of events that qualify as genocide. The first crime of this kind was the massacre of 1.5 million Armenians in the Ottoman Empire in 1915. Two decades later, this was followed by the Jewish Holocaust and the extermination of Slavs and Gypsies during the Second World War. Immediately after the Second World War, the shocked world addressed the problem of genocide, defining it as a crime against humanity, and adopted the Convention on the Prevention and Punishment of the Crime of Genocide, to protect mankind from repeating the atrocities that marred its past. Yet the tragic events of the Second World War were not the end of the age of genocide. Later in the course of the century the world faced genocide in Cambodia and, near the very end of the century, in Europe and Africa.

In an ironic statement, Georg Hegel said that experience and history teach that people and governments never have learned anything from history, or acted on principles deduced from it. As hard as it may seem, we have to admit that not only has mankind failed to learn how to use the experience of the past to avoid future atrocities, but the unpunished crimes of the past have sometimes led to their repetition in new, often more violent forms.

It was not until several years after the genocide in Rwanda that world leaders admitted that the world had not fully realized the speed with which people were being drawn into the unimaginable depths of terror and that it had not acted quickly after the killing had begun. At the time, the crimes were not immediately called by their rightful name: genocide. This clearly demonstrates that the global community still has a lot to learn from the experience of its past. If we are ever to learn the lessons of history, we also have to face its worst pages, because cold, hard knowledge of past injustices can sometimes result in reaffirmation of the will to prevent any future violence.

History is not the dead hand of the past weighing down the present; history is the covenant of fathers and sons. In the dialogue with the past, we encounter sources of character formation as powerful as our participation in contemporary events and as gripping as our hope of things to come. The dark part of the history of the twentieth century began with the genocide of Armenians in 1915, which, as is well known, was not duly condemned by the international community at the time and which encouraged certain regimes to commit new genocides.

The Armenian genocide showed that it could be done: a policy of genocide by a Government went unchecked by other Powers, and in time the possibility of such a policy built up new brutalities. The most striking evidence of this is the now well-known rhetorical flourish with which Hitler responded to the nervous questions of some of his advisers vis-à-vis his plans for the invasion of Poland in 1939: "Who, after all, speaks today of the annihilation of the Armenians?" This vicious development did not stop at Auschwitz. After genocidal actions in Cambodia, the territory of the former Yugoslavia and Rwanda, we are coming to speak of the twentieth century, which opened with genocide of the Armenians, as the age of genocide.

Many studies have proved that genocide shapes the outlook not only of immediate victims but also of subsequent generations. The survivors are filled with

mistrust, fear and a sense of danger of what may come about in the world. Regrettably, denial, which has become an integral part of genocide, often reinforces the sense of insecurity, abandonment and betrayal. The victims need to have the world recognize their suffering, and especially to receive expressions of regret and apology from the perpetrators' side. Only then can a sense of justice and rightness be restored. Until such a time, the pain and rage continue and the healing process is blocked.

For the descendants of perpetrators, in their turn, it is of the utmost importance to engage in introspection, to face and learn from their history, to question how such violence could have occurred, to examine what it was that led them down the road to genocide and to find some redemption through appropriate acts of contrition — beginning, but not ending, with a knowledge and acceptance of the truth. If they are unable or unwilling to deal with the truth and instead try to maintain a righteous self-image, then they may again be placed on a path towards the victimization of other groups.

In the modern world, not to take genocide denial into consideration is to fail to comprehend a major component of the dynamics of extermination. The deniers' denial has much to do with their initial success and brazen behaviour. This has become especially characteristic of twentieth-century genocides, particularly those of the beginning of the century, when no international legal framework had been established for the punishment of the crime of genocide.

The fixing of responsibility for the organization and perpetration of acts of genocide is a complicated yet highly important aspect of the prevention of genocide as a crime against humanity. In this context, the establishment of the International Criminal Court earlier this year came as a vital step towards creating a working mechanism that would provide the necessary link that the international legal system needed to guarantee solid protection of human rights in terms of bringing to justice those responsible for genocide or crimes against humanity; for, if human rights are to have any meaning at all, none of us can remain indifferent when anyone else's rights are being violated anywhere. Human rights do not belong to Governments. They are limited to no continent, for they are fundamental for humankind itself.

I would like to recall the famous words of the German theologian Martin Niemoeller, which Secretary-General Kofi Annan has recently quoted in his statements.

> "... they came first for the Communists, and I didn't speak up because I wasn't a Communist. Then they came for the Jews, and I didn't speak up because I wasn't a Jew ... Then they came for the Catholics, and I didn't speak up because I was a Protestant. Then they came for me, and by that time no one was left to speak up."

In order not to allow ourselves to come to the point where there is no one to speak up, we have to intensify our efforts, collectively or individually, to bring to justice those responsible for genocide and crimes against humanity. We must do all we can to replace the law of force with the force of law.

We hope that by combining efforts in the struggle against the crime of genocide, humanity will take a decisive step towards the elimination of that crime in the next century. We cannot bring back to life the dead of this century or those who have been victims of political mass murder throughout the ages, but we can act to bring about a world free from the scourge of mass killing. In committing ourselves to creating a world of peace, freedom and mutual respect, we honour the memory of those who have fallen victim to the ultimate crime.

Mr. Gold (Israel): As representatives of a nation that emerged from the ashes of the Holocaust, the most extreme, brutal and incomparable instance of genocide in human history, we the people of Israel have a unique role in punishing and preventing this atrocity. As witnesses to the crime at its worst, we have spearheaded the role of bringing to justice the perpetrators of the Nazi Holocaust and making sure the world community heeds its lessons. Hence the Israeli Law on the Crime of Genocide and the Nazi and Nazi Collaborators (Punishment) Law impose no time limits on the need to bring the perpetrators of genocide to justice. So, too, must every State and the international community as a whole follow the duty shared by all mankind to set no such limitations on punishing the crime of genocide. We therefore agree with the stand recently taken in the Statute of the International Criminal Court.

The Holocaust is unique, both in the scope of its brutality and the completeness of its aim to utterly destroy an entire people. Yet as heirs to its important lessons for humanity as a whole, we recognize their applicability to the crime of genocide in general.

As we mark the fiftieth anniversary of the Convention on the Prevention and Punishment of the

Crime of Genocide, we note with gravest dismay that the threat of genocide still remains. Indeed, in the last 50 years, the world has witnessed numerous massacres of civilian populations by State action.

If we are to make legal headway in preventing genocide, we must recognize that it does not happen in a vacuum. Genocides can potentially spring up in a variety of concrete, existing social and political structures. It is therefore all the more important to give careful thought to the legal frameworks and definitions with which we identify the phenomenon. This is no easy task. Genocide is undeniably real, yet it seems to defy definition. All formal definitions are either too broad to invite action or too narrow to require any.

The first step was to declare it illegal. With the founding of the United Nations, the General Assembly, in response to the horrors of the Second World War, declared in the first preambular paragraph of resolution 96 (I) of 11 December 1946 that genocide is "contrary to...the spirit and aims of the United Nations", and in the first operative paragraph that genocide "is a crime under international law which the civilized world condemns".

This principle was solidified first with the establishment of international criminal jurisdiction on the crime of genocide after the Second World War, followed by the adoption of the Nuremberg and Tokyo tribunals. The trend went further with the more recent Yugoslavia and Rwanda tribunals, set up in 1993 and 1994, respectively, to deal with the atrocities committed in those internal conflicts. The recent drafting of the Statute of the International Criminal Court in July 1998 marked yet another historic step in the international drive to create a permanent tribunal in which the crime of genocide, along with other serious war crimes, will be adjudged on a permanent basis.

Once established, the new court will constitute an independent judicial organ with the power to exercise criminal jurisdiction against individuals accused of such hideous crimes as genocide, crimes against humanity and the most serious war crimes. Moreover, the Statute echoed the definition of genocide reached in the Genocide Convention. That delineation refers to killing, causation of serious injury or harm, inflicting conditions calculated to cause physical destruction, preventing births and transferring children, all of which are committed with the intent to destroy, in whole or in part, a national, ethnic or religious group.

Yet because of the unique horror of genocide, we must be ever vigilant not to misinterpret it, either by widening or narrowing the concept beyond practical application. Politicization of the International Criminal Court, by defining as war crimes actions that have no connection whatsoever with the history of genocide, simply abuses the Convention on Genocide and, frankly, insults the memory of the millions who died in Nazi-occupied Europe.

It was the Holocaust that inspired the Genocide Convention, and with good reason. No other event in history so brutally combined the wanton slaughter of human life and freedom, on the one hand, with the clear aim of wiping out an entire nation, on the other. This was genocide par excellence. Moreover, these ruthless acts of brutality were systematically planned, organized and carried out utilizing to their extremes the advances of science, law and technology. It is thus only reasonable that attempts to capture the essence of genocide weigh heavily on the collective sensibilities of the nation that bore the worst brunt of it: the Jewish people and the Israeli nation. Indeed, no other instance of genocide serves as a more appropriate, universal model of man's inhumanity to man.

Yet the term "genocide" has increasingly been recruited to serve controversial political and cultural aims and contexts, usually falling beyond the legal scope of the term itself. References to heinous instances of violence and destruction as equivalent to the crime of genocide tend to distort the concept and weaken its applicability.

Bearing all this in mind, on behalf of the Israeli delegation, I wish to conclude with a brief comment for consideration. It might perhaps be wise to strengthen the Convention to apply to groups that have so far resisted classification but who may become targets of genocidal crimes. These include groups defined by gender and political circumstance. This should be done by using the legal means available — that is, by using the international treaty mechanism rather than misinterpreted contemporary legal definitions.

The obligation of States under the Genocide Convention is not merely to refrain from committing genocide but to prevent and punish acts of genocide. As we mark the fiftieth anniversary of the Universal Declaration of Human Rights, we must reflect upon its roots. Israel, together with the Universal Declaration, is also marking its own fiftieth anniversary. The Israeli delegation thus feels particular solidarity with this

document, in no small part because it grew out of the same impulses that gave birth to the State of Israel itself, after the horrors of the Holocaust.

The Universal Declaration enshrines and reaffirms the principles which had been cast aside and desecrated during the Second World War. Hence, now it is up to us, as spokespersons of the international community, to play an active role, especially in this sphere. We must decide as one world community that we will never tolerate genocide, in any form or context.

As we stand on the verge of the twenty-first century, we must make sure to carry with us the most crucial lessons of the century past.

Mr. Zmeevski (Russian Federation) (*interpretation from Russian*): The century that is coming to a close will leave behind many memories. One of the most horrible is genocide, the offspring of the Nazi policy of mass annihilation of human beings. The world paid with millions of human lives because the evil that gave rise to genocide was not nipped in the bud. Thanks to the courage and determination of the peoples of the United Nations who took up arms, humanity managed to end the impunity of those evil acts and to convict the guilty at Nuremberg.

The creators of the anti-genocide Convention, which was adopted by the General Assembly in December 1948, learned from this experience. They were guided not only by legal terminology and the compromises of diplomatic conferences; before their very eyes was irrefutable proof of unprecedented of human suffering. The Convention was the first treaty of legal standing to describe genocide as a crime. It laid the foundation for international cooperation for the purpose of ridding mankind of this abominable scourge.

Unfortunately, the goals set a half century ago have not been fully attained. The "acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group" referred to in article II of the Convention are not just a memory stored in Holocaust museums and at memorial sites. In today's inter-ethnic conflicts, amid religious strife following on the heels of aggressive nationalism, again we hear the words that appeared on the gates of a Nazi concentration camp: *Jedem das Seine* — "To each his due". To oppose the spread of this vile hatred of one human being for another we need clear and uncompromising actions on the part of the community of nations. History does not forgive wavering and weakness of will.

We can rightly call 17 July 1998 a historic date. That was the day of the adoption of the Statute of the International Criminal Court, whose jurisdiction extends to genocide, crimes against humanity, war crimes and the crime of aggression. Thereby, the community of nations entered a new stage of international protection for human rights and law, a new stage in the fight against impunity.

Clearly, what international justice does to prevent and punish the crime of genocide should be combined with decisive efforts at the national level. One of the firm requirements of the 1948 Convention is the establishment in article V of "effective penalties for persons guilty of genocide". Russia's new criminal code considers genocide one of the gravest crimes, punishable by harsh criminal sanctions. The wording in the Russian criminal code's definition of responsibility for genocide is in accordance with the Convention on the Prevention and Punishment of the Crime of Genocide.

We are convinced that even half a century after the appearance of the anti-genocide Convention our vigilance must not cease. The concept of genocide, as handed down by the framers of the Convention, must disappear for ever from everyday life. If not nipped in the bud, new attempts to steer human civilization into concentration camps may result in the total destruction of this civilization.

Finally, I would like to thank sincerely the delegation of Armenia for its important initiative of drawing the attention of the international community to the lasting significance of the anti-genocide Convention and of proposing the consolidation of efforts to counter that crime.

Mr. Kolby (Norway): Winston Churchill called genocide "the nameless crime", and it has been repeatedly pointed out that the crime of genocide remains in a class by itself, putting in jeopardy the very notion of an international community.

We welcome the first-ever judgements on the crime of genocide by an international tribunal, 50 years after the adoption of the Genocide Convention. It fell to the International Criminal Tribunal for Rwanda to deliver those ground-breaking decisions in September this year. Moreover, they represent important new building-blocks in international jurisprudence with regard to the prosecution of the most serious international crimes.

The obligation to prevent and punish genocide is not limited to the parties to the Genocide Convention. We recall the clear 1951 advisory opinion of the International Court of Justice, *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, which states that

> "the principles underlying the Convention are principles which are recognized by civilized nations as binding on States, even without any conventional obligation".

This was further implicitly confirmed during the Rome Conference on the establishment of the International Criminal Court.

Article I of the Convention confirms genocide as a crime. With respect to the criminality of genocide, the Convention may be regarded as confirming a rule of customary international law. The prevention and punishment of the crime of genocide is thus a universal obligation of all States.

It is noteworthy that, pursuant to article IV of the Convention, no sovereign immunity may be invoked to escape individual responsibility, even by constitutionally responsible rulers. This principle was later confirmed by the Statutes of the International Criminal Tribunals and of the International Criminal Court.

We also recall the responsibility of States, in accordance with the Genocide Convention, and the competence of the International Court of Justice, pursuant to article IX, to settle disputes with respect to the interpretation, application or fulfilment of the Convention.

In its very first session, the General Assembly adopted a resolution characterizing genocide as an international crime. The Genocide Convention was adopted by the General Assembly during its third session. There was then widespread support for an international criminal court to enforce the Convention and a general expectation that such a court would be a reality within a relatively short time. In article VI provision was actually made to that effect. By the achievements this year, we have taken a major step towards implementing that provision and bridging a gap of 50 years.

The experience gained by the ad hoc Tribunals is a stepping stone towards the establishment of the International Criminal Court in accordance with the Rome Statute adopted in July this year. The adoption of the Rome Statute establishing an International Criminal Court is truly a historic achievement. The existence of a permanent, global institution of this kind will significantly enhance deterrence of the most heinous international crimes, including genocide. In our view the Statute provides for an independent, effective and credible Court, while at the same time allowing for as broad a basis as possible of support to the Court. The significant contributions from all regions, legal systems and cultures to the negotiating process, both before and during the Rome Diplomatic Conference, cemented the foundation for a truly universal institution, arguably even more so than the statutes for the Nuremberg, Tokyo, Yugoslavia or Rwanda Tribunals. Furthermore, the Statute provides for the first time for satisfactory written rules of international law on a wide-ranging number of issues, thus substantially enhancing legal predictability and certainty.

Norway remains committed to the implementation of the Genocide Convention and to the fulfilment of its purposes. We join those who have appealed to States to take all necessary legislative and prosecutorial steps in order to comply with its provisions.

Mr. Dausá Céspedes (Cuba) (*interpretation from Spanish*): The ninth day of December this year will mark the passage of 50 years since the historic adoption by the Member States of the United Nations of a legally binding international instrument on the prevention and punishment of the crime of genocide. In this regard, in view of the solemnity of the occasion, it is regrettable that it was not possible for this meeting to be held on 9 December 1998 itself.

Genocide, bringing death and grief, has done irreparable damage to humankind at various times in history. The world has witnessed countless actions and policies deliberately designed to destroy a national, ethnic, racial or religious group. After the end of the Second World War, with the fascist atrocities of the Nazis still fresh in everyone's mind, in 1946 the newly founded United Nations made attention to the crime of genocide one of its priorities. That marked the beginning of the process of drafting and adopting measures to prevent such practices from occurring again.

In 1946, the delegations of Panama, India and Cuba took the initiative of presenting to the General Assembly the first draft resolution on the issue, which classified genocide as a crime against human rights. Since then the issue has evolved considerably. Many different views

emerged in process and agreement was reached on conceptual approaches, which, despite their significant limitations, unquestionably marked a historic step towards ridding humanity of the crime of genocide.

Through the Convention on the Prevention and Punishment of the Crime of Genocide, the contracting parties agreed that international cooperation was necessary to prevent and properly punish such a grave offence. Article II of the Convention established a definition of genocide that was quite advanced for the historical context in which it was drafted. It not only included a reference to the killing of members of a group, but also referred to causing serious bodily or mental harm to members of a group and deliberately inflicting on such a group conditions of life calculated to bring about its physical destruction in whole of in part. Furthermore, Article III, which lists punishable acts, includes both genocide itself and certain acts that may lead to it, namely, conspiracy, attempts to commit genocide and complicity in that crime.

Those definitions still have full validity and juridical objectivity. We therefore believe that any exercise aimed at the progressive development and further codification of the crime of genocide as an element of international law should be carried out in conformity with the letter and the spirit of articles II and III of the 1948 Convention.

A critical evaluation of the validity and scope of the Convention is required now that half a century has passed since its adoption. During that time it has been shown that the international community has not been capable of putting an end to genocide, even though the Convention is an important tool for fostering international cooperation in that regard. This is due both to political reasons and to limitations of legal applicability.

Regrettably, the application of the Convention has been characterized by a double standard that favours the powerful. There has not been an effective and coherent international mechanism to which all may have recourse on an equal footing and with guarantees of due process. New forms of genocide have surfaced and multiplied. The definitions contained in the 1948 Convention are therefore inadequate in the face of the diverse contemporary manifestations and practices of this crime of *lèse-humanité*.

Unilaterally depriving a people of the right to trade freely in an increasingly globalized world and restricting its access to the resources it needs for its survival and development is an assault on its very existence and causes great suffering and irreparable harm to the physical and mental integrity of its members. This becomes even graver when that people is denied access to the food and medicine necessary for life, affecting most particularly women, children and the elderly. The blockade imposed by the United States on Cuba is thus a policy of genocide, a grave crime and a manifestation of the use of force against a people threatened by extermination through hunger and disease.

The international community continues to combat acts of genocide in all its forms and manifestations, an objective that was reflected in the process of drafting and adopting the Statute of an International Criminal Court. It is of far-reaching importance for the crime of genocide to be included among the crimes that can be brought before and punished by the International Criminal Court.

On the fiftieth anniversary of the General Assembly's adoption of the Convention on the Prevention and Punishment of the Crime of Genocide, Cuba associates itself with all those who have reaffirmed the importance of its universal ratification and the need for its continued implementation as an indispensable contribution to the cause of ridding humanity of the crime of genocide.

Mr. Kayinamura (Rwanda): My delegation has worked with the sponsors of draft resolution A/53/L.47, and I recommend its adoption by consensus.

I would like to thank Ambassador Abelian of Armenia most sincerely for his tireless efforts to bring this agenda item before us for discussion.

Many delegations have spoken before me and have gone into the details of the heinous nature of the crime of genocide.

Its origins are well known. It derives from the obsessive folly of dictatorial leadership and fear of positive change. This is true of all the recent horrors of genocide which the world has unfortunately witnessed.

In all cases, the crime of genocide is not a spontaneous action. It is the result of careful planning. It starts with massive rallies aimed at rousing a sense of nationalism in order to counter a perceived threat of an enemy. Dictators see calls for democratic change and good governance as cause to wipe out those they do not like. As a result, they always work out in detail plans to finish off their enemies. In most cases, the use of state machinery and media teachings of hatred are the most

important lethal instruments used to drum up nationalistic sentiments, the pretext of which they always use to carry out macabre crimes. This was certainly the case for Rwanda.

Rwanda is a country that suffered one of the most devastating tragedies in recent history. The first ethnic massacres engineered by the authorities took place in 1959, before our independence. The crime was carefully prepared by the authorities of the time and was not punished. The perpetrators of the crime soon became the new leaders after independence. There was no international outcry or condemnation. Because there was no punishment, other successive massacres occurred in late 1963, early 1964, 1974 and 1994. Throughout this time, the world did not realize the genocidal nature of the crime. Instead, the leaders of the time, together with their intellectual apologists, falsified the true character of the crime; the ideology of genocide was simplified in terms of ethnic killings. Even today, many have fallen into the mistaken belief that the Rwandan genocide was the result of ethnic fighting. This is not the case. The victims of genocide in Rwanda were neither armed nor political activists. They were wiped out simply because they belonged to a different ethnic group which was perceived as the enemy of the leadership.

The fiftieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide provides us with a rare opportunity to re-examine the causes, the effects and the ways of ensuring that never again shall mankind be subjected to similar horrors of genocide and massacre. Indeed, prevention is always better than cure. This is provided for in the Convention we are celebrating today. Punishing the crime renders justice, but it always comes after the fact, when the crime has already been consummated, leaving behind deep wounds of trauma and devastation. Yet, what happened in the past and continues to happen today is that the international community always gets caught up in disbelief when reports of the horrors of genocide start to come out, as was the case in the Second World War. The world was shocked when the most barbaric horrors of the Holocaust started to emerge.

Be it to the Armenian, Cambodian, Bosnian or Rwandan genocides, the reaction has always been shock and disbelief of what happened. The signs of the impending horrors do not hide themselves; they have always been known in advance. They are even better known today than ever before because of technological advances in communications.

Genocide is a crime which has always been carefully planned and prepared. It is methodical and systematic. Once genocidal killings are viewed from the perspective of nationalism in war situations, they are difficult to stop. No moral persuasion or public outcry can put them to an end once the genocide has started. These arguments did not work in Rwanda until Rwandans rose to end the genocide on their own after it had consumed more than 1 million people in 90 days — 90 days. The scale, intensity and manner of the brutality of the Rwandan genocide have no parallel. On average, 11,000 people were butchered on a daily basis. The withdrawal of a 5,500-strong United Nations force at the height of the execution of genocide in Rwanda was not helpful. It could have prevented the worst.

The world body gathered here should now recommit itself in full resolve to heeding the early warnings which would clearly show that genocide is in the making. The international community must act with speed to condemn and contain leaders who incite populations to exterminate their own citizens. Public statements on radio and television do set off waves of genocidal killings, especially if these come from the highest authorities in Governments. Examples are eminently clear to all of us. This must be stopped and condemned in the most categorical terms, without excluding the use of all other possible means. Support for the architects of genocide or their cover must also be seen as actionable complicity in the crime.

In an attempt to ensure that there shall never again be impunity for similar crimes in Rwanda, an organic law on the organization of the prosecution of offences constituting the crime of genocide or crimes against humanity was promulgated on 30 August 1996. Its enactment has no precedent anywhere. This law seeks to reconcile our past while building for the future in order to prevent the re-occurrence of genocide in Rwanda.

The fiftieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide comes at a time when two ad hoc International Criminal Tribunals for Rwanda and the former Yugoslavia have been established. Their work remains commendable. The signing and ratification of the Statute of the International Criminal Court by Member States will be a significant milestone in international criminal justice. However, these are not enough. Other additional actions must be aimed at countering intellectually crafted obscurantism, revisionism and denials that seek to hide, diminish or belittle the past relating to genocide.

The Convention which we are celebrating today calls, in its article VII, on all its signatory States to return the perpetrators of the crime of genocide to the countries where the crime was committed in order to be tried. We hope that exceptions to the provisions of the Convention which are based on excuses concerning the dictates of the law, the official capacity of the defendant or even political and business interests, as is the case of Rwandan suspects in some countries, will not be allowed by this world body. Renewed cooperation by Member States is critical in this regard, as we have just been reminded by the representative of Turkey.

This is why our session should agree on additional measures to prevent further crimes of genocide and crimes against humanity. We must form a coalition against genocide, revisionism and obscurantism. The United Nations will have to play a significant role in this regard. It has a number of means at its disposal that could be used in this area. Many delegates, I am sure, will support or have additional ideas to improve this proposal. Let our inaction not lend credence to the theory of the duplicity of silence or indifference.

The President (*interpretation from Spanish*): We have heard the last speaker in the debate on this item.

The Assembly will now take a decision on draft resolution A/53/L.47.

It is my understanding that it will not be necessary to proceed to a vote. May I take it that the Assembly decides to adopt draft resolution A/53/L.47?

Draft resolution A/53/L.47 was adopted (resolution 53/43).

The President (*interpretation from Spanish*): I now call on those representatives who wish to speak in right of reply.

Mr. Arda (Turkey): The representative of Armenia referred indirectly to my country. He referred to certain tragic events of the past. There is no doubt that peoples of that region have faced and continue to face tragedies even today. There is no doubt that thousands of Turks and Armenians have perished during the events to which reference was made. Almost every family on both sides had their share. It was a mutual tragedy. The Turkish Republic was established following the disintegration of that multinational empire. This process of disintegration took about two centuries. The suffering experienced by the Turkish people during this long process of disintegration was beyond human imagination. But despite all this, the modern Republic was established on the basis of peace within the existing territories in the world. The Republic is not based on revenge, nor on groundless blame, hostility, animosity or hate. The Lausanne Peace Treaty of 1923 and its implementation is a symbol of these facts.

The Ottoman archives are open to every researcher. Armenians scholars have a single conclusion. But some other scholars have reached conflicting conclusions. Even the British and the American ambassadors of the time had conflicting views. It is our sincere belief that Armenians are resourceful enough to assert their national identity through constructive ways, other than through tragedy. They should not be prisoners of the past. Rather, the past should teach them the benefits of peace.

Mr. Abelian (Armenia): It is not the intention of my delegation to open a discussion here on the Armenian genocide. My statement was focused on the problem of genocide as a whole. However, since a statement was made in a right of reply by the representative of Turkey, I would like to make a few points here.

For Armenians, the twentieth century began with a tragedy of genocide and mass deportation in the Ottoman Empire. The first genocide of the twentieth century unfolded in full force and continued until it consumed the lives of 1.5 million Armenians. One of the bloodies massacres in history, the Armenian genocide witnessed the rape, assault, plunder and murder of an entire population with the premeditated ultra-nationalist objective of wiping out the Armenian community.

May I recall here the question asked by the British Foreign Minister, Lord Curzon, at the 1923 Lausanne Conference, directed to Ismet Pasha, the head of the Turkish delegation:

> "There were three million Armenians in Asia Minor before the war. Now there are only 130,000. Where are the rest? Did they commit suicide or disappear voluntarily?"

Since reference was made also to the United States ambassador, I would also like to recall here Louis Heck, the United States Commissioner in Istanbul and Special Assistant in the Department of State at that time:

> "The Young Turk Government soon availed itself of the opportunity afforded by war conditions to try to

exterminate the Armenian population of Asia Minor and thus rid itself once and for all of the Armenian question."

In reference to the past, I would also like to talk about what dialogue on the past means. Of course, it is difficult to sustain, in speaking of a massive traumatic event, that which the victims and the perpetrators are driven to suppress of their recollections; the victims, in order to get on with their lives; the perpetrators, to deny their full measure of guilt. In both groups there is a notable psychological drive to trust events and to forget, to close and bolt the door. How then shall a massive genocide be treated? The urge is strong to speak of it as an event in the past, a spectre to be drawn from the world of history on special occasions. Yet this approach short-circuits communication between the past and the present and muffles the messages to be passed between generations that the lessons are to mastered.

The President (*interpretation from Spanish*): May I take it that it is the wish of the General Assembly to conclude its consideration of sub-item (b) of agenda item 46?

It was so decided.

The meeting rose at 5.40 p.m.